

# SENATE MOTION

## MADAM PRESIDENT:

**I move** that Engrossed House Bill 1001 be amended to read as follows:

- 1       Page 129, between lines 31 and 32, begin a new paragraph and
- 2       insert:
- 3       "SECTION 57. IC 4-13-1-4, AS AMENDED BY P.L.1-2006,
- 4       SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5       JULY 1, 2009]: Sec. 4. The department shall, subject to this chapter,
- 6       do the following:
- 7           (1) Execute and administer all appropriations as provided by law,
- 8           and execute and administer all provisions of law that impose
- 9           duties and functions upon the executive department of
- 10          government, including executive investigation of state agencies
- 11          supported by appropriations and the assembly of all required data
- 12          and information for the use of the executive department and the
- 13          legislative department.
- 14          (2) Supervise and regulate the making of contracts by state
- 15          agencies.
- 16          (3) Perform the property management functions required by
- 17          IC 4-20.5-6.
- 18          (4) Assign office space and storage space for state agencies in the
- 19          manner provided by IC 4-20.5-5.
- 20          (5) Maintain and operate the following for state agencies:
- 21            (A) Central duplicating.
- 22            (B) Printing.
- 23            (C) Machine tabulating.
- 24            (D) Mailing services.
- 25            (E) Centrally available supplemental personnel and other
- 26            essential supporting services.
- 27          The department may require state agencies to use these general
- 28          services in the interests of economy and efficiency. The general
- 29          services rotary fund is established through which these services
- 30          may be rendered to state agencies. The budget agency shall
- 31          determine the amount for the general services rotary fund.

(6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.

(7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:

(A) Per diem.

(B) For expenses necessarily and actually incurred.

(C) Any combination of the methods in clauses (A) and (B).

The rules must require the approval of the travel by the commissioner and the head of the officer's or employee's department prior to payment.

(8) Administer IC 4-13.6.

(9) Prescribe the amount and form of certified checks, deposits, or bonds to be submitted in connection with bids and contracts when not otherwise provided for by law.

(10) Rent out, with the approval of the governor, any state property, real or personal:

(A) not needed for public use; or

(B) for the purpose of providing services to the state or employees of the state;

the rental of which is not otherwise provided for or prohibited by law. Property may not be rented out under this subdivision for a term exceeding ten (10) years at a time. However, if property is rented out for a term of more than four (4) years, the commissioner must make a written determination stating the reasons that it is in the best interests of the state to rent property for the longer term. This subdivision does not include the power to grant or issue permits or leases to explore for or take coal, sand, gravel, stone, gas, oil, or other minerals or substances from or under the bed of any of the navigable waters of the state or other lands owned by the state.

(11) Have charge of all central storerooms, supply rooms, and warehouses established and operated by the state and serving more than one (1) agency.

(12) Enter into contracts and issue orders for printing as provided by IC 4-13-4.1.

(13) Sell or dispose of surplus property under IC 5-22-22, or if advantageous, to exchange or trade in the surplus property toward the purchase of other supplies, materials, or equipment, and to make proper adjustments in the accounts and inventory pertaining to the state agencies concerned.

(14) With respect to power, heating, and lighting plants owned, operated, or maintained by any state agency:

(A) inspect;

(B) regulate their operation; and

(C) recommend improvements to those plants to promote economical and efficient operation.

(15) Administer, determine salaries, and determine other personnel matters of the department of correction ombudsman bureau established by IC 4-13-1.2-3.

(16) Adopt rules to establish and implement a "Code Adam" safety protocol as described in IC 4-20.5-6-9.2.

(17) Adopt policies and standards for making state owned property reasonably available to be used free of charge as locations for making motion pictures.

**(18) Administer, determine salaries for, and determine other personnel matters of the department of child services ombudsman established by IC 4-13-19-3.**

SECTION 58. IC 4-13-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**Chapter 19. Department of Child Services Ombudsman**

**Sec. 1. As used in this chapter, "child" means a person who:**

(1) is less than eighteen (18) years of age;

(2) is at least eighteen (18) years of age at the time the complaint is made but was less than eighteen (18) years of age at the time of the alleged act or omission that is the subject of the complaint; or

(3) is at least eighteen (18) years of age but has been under the continuing jurisdiction of a juvenile court based upon an informal adjustment, child in need of services action under IC 31-34, or termination of parental rights action under IC 31-35 since becoming eighteen (18) years of age.

**Sec. 2. As used in this chapter, "ombudsman" means:**

(1) the person appointed by the governor to serve as ombudsman; or

(2) an employee or other individual approved by the office of the department of child services ombudsman to act in the capacity of ombudsman;

to investigate and resolve complaints that allege the department of child services failed to protect the health and safety of any child or failed to follow specific laws, rules, or written policies.

**Sec. 3. The office of the department of child services ombudsman is established as a separate bureau within the department. The ombudsman appointed by the governor shall report directly to the commissioner. The ombudsman appointed by the governor must be an attorney licensed to practice law in Indiana or a social worker with at least a master's degree. The**

1 ombudsman appointed by the governor must have significant  
 2 experience or education in child development and child advocacy,  
 3 including at least two (2) years experience working with child  
 4 abuse and neglect.

5 Sec. 4. (a) The governor shall appoint the ombudsman. The  
 6 ombudsman serves at the pleasure of the governor. An individual  
 7 may not be appointed as ombudsman if the individual has been  
 8 employed by the department of child services at any time during  
 9 the preceding twelve (12) months. The governor shall appoint a  
 10 successor ombudsman not later than thirty (30) days after a  
 11 vacancy occurs in the position of the ombudsman.

12 (b) The office of the department of child services ombudsman  
 13 may employ technical experts and other employees to carry out the  
 14 purposes of this chapter. However, the office of the department of  
 15 child services ombudsman may not hire an individual to serve as  
 16 an ombudsman if the individual has been employed by the  
 17 department of child services during the preceding twelve (12)  
 18 months.

19 (c) The ombudsman and any other person employed or  
 20 authorized by the ombudsman:

- 21 (1) are subject to the same criminal history and background  
 22 checks, to be performed by the department of child services,  
 23 that are required for department of child services family case  
 24 managers; and
- 25 (2) are subject to the same disqualification for employment  
 26 criteria as department of child services family case managers.

27 Sec. 5. (a) The office of the department of child services  
 28 ombudsman may receive, investigate, and attempt to resolve a  
 29 complaint alleging that the department of child services, by an  
 30 action or omission occurring on or after January 11, 2005, failed  
 31 to follow a specific law, rule, or department written policy and  
 32 thereby failed to protect the health or safety of any child.

33 (b) The office of the department of child services ombudsman  
 34 may also do the following:

- 35 (1) Take action, including the establishing of a program of  
 36 public education, to secure and ensure the legal rights of  
 37 children.
- 38 (2) Periodically review relevant policies and procedures with  
 39 a view toward the safety and welfare of children.
- 40 (3) When appropriate, refer a person making a report of child  
 41 abuse or neglect to the department of child services and, if  
 42 appropriate, to an appropriate law enforcement agency.
- 43 (4) Recommend changes in procedures for investigating  
 44 reports of abuse and neglect and overseeing the welfare of  
 45 children who are under the jurisdiction of a juvenile court.
- 46 (5) Make the public aware of the services of the ombudsman,  
 47 the purpose of the office, and information concerning  
 48 contacting the office.

(6) Examine policies and procedures and evaluate the effectiveness of the child protection system, specifically the respective roles of the department of child services, the court, the medical community, service providers, guardians ad litem, court appointed special advocates, and law enforcement agencies.

(7) Review and make recommendations concerning investigative procedures and emergency responses contained in the report prepared under section 10 of this chapter.

(c) Upon request of the office of the department of child services ombudsman, the local child protection team shall assist the office of the department of child services ombudsman by:

(1) investigating and making recommendations on a matter; or

(2) redacting or revising any report to be prepared for the complainant so that confidentiality laws are maintained.

If a local child protection team was involved in an initial investigation, a different local child protection team may assist in the investigation under this subsection.

(d) At the end of an investigation of a complaint, the office of the department of child services ombudsman shall provide an appropriate report as follows:

(1) If the complainant is a parent, guardian, custodian, court appointed special advocate, guardian ad litem, or court, the ombudsman may provide the same report to the complainant and the department of child services.

(2) If the complainant is not a person described in subdivision (1), the ombudsman shall provide a redacted version of its findings to the complainant stating in general terms that the actions of the department of child services were or were not appropriate.

(e) The department of child services ombudsman shall provide a copy of the report and recommendations to the department of child services. The office of the department of child services ombudsman may not disclose to:

(1) a complainant;

(2) another person who is not a parent, guardian, or custodian of the child who was the subject of the department of child services' action or omission; or

(3) the court, court appointed special advocate, or guardian ad litem of the child in a case that was filed as a child in need of services or termination of parental rights action;

any information that the department of child services could not, by law, reveal to the complainant, parent, guardian, custodian, person, court, court appointed special advocate, or guardian ad litem.

(f) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and

any other pertinent material, the office of the department of child services ombudsman determines that the complaint has merit or the investigation reveals a problem, the ombudsman may recommend that the agency, facility, or program:

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a rule, order, or internal policy; or
- (4) explain more fully the action in question.

(g) At the office of the department of child services ombudsman's request, the agency, facility, or program shall, within a reasonable time, inform the office of the department of child services ombudsman about the action taken on the recommendation or the reasons for not complying with it.

(h) The office of the department of child services ombudsman may not investigate the following:

- (1) A complaint from an employee of the department of child services that relates to the employee's employment relationship with the department of child services.
- (2) A complaint concerning a matter that is currently the subject of a pending administrative review procedure before the exhaustion of administrative remedies provided by law, rule, or written policy. Investigation of any such complaint received shall be stayed until the administrative remedy has been exhausted. However, if the administrative process is not completed within six (6) months after initiation of the administrative process, the office of child services ombudsman may proceed with its investigation.

(i) If the office of the department of child services ombudsman does not investigate a complaint, the office of the department of child services ombudsman shall notify the complainant of the decision not to investigate and the reasons for the decision.

Sec. 6. (a) The office of the department of child services ombudsman shall be given appropriate access to department of child services records of a child who is the subject of a complaint that is filed under this chapter.

(b) A state or local government agency or entity that has records that are relevant to a complaint or an investigation conducted by an ombudsman shall provide the ombudsman with access to the records.

(c) A person is immune from:

- (1) civil or criminal liability; and
- (2) actions taken under:
  - (A) a professional disciplinary procedure; or
  - (B) procedures related to the termination or imposition of penalties under a contract dealing with an employee or contractor of the department of child services;

for the release or disclosure of records to the ombudsman under this chapter, unless the release or disclosure constitutes gross

negligence or willful or wanton misconduct.

(d) Information or records of a state or local government agency provided to the office of the department of child services ombudsman may not be disclosed to the complainant or others if confidential under laws, rules, or regulations governing the state or local government agency that provided the information or records.

Sec. 7. (a) The office of the department of child services ombudsman shall do the following:

(1) Establish procedures to receive and investigate complaints.

(2) Establish physical, technological, and administrative access controls for all information maintained by the office of the department of child services ombudsman.

(3) Except as necessary to investigate and resolve a complaint, ensure that the identity of a complainant will not be disclosed without:

(A) the complainant's written consent; or

(B) a court order.

(b) Records created and received by the office of the department of child services ombudsman concerning a specific child's case are confidential, and a communication by the ombudsman concerning a specific child's case is a privileged communication.

Sec. 8. The office of the department of child services ombudsman may adopt rules under IC 4-22-2 necessary to carry out this chapter.

Sec. 9. An ombudsman is not personally liable for the good faith performance of the ombudsman's official duties.

Sec. 10. (a) The office of the department of child services ombudsman shall prepare a report each year on the operations of the office.

(b) The office of the department of child services ombudsman shall include the following information in the annual report required under subsection (a):

(1) The office of the department of child services ombudsman's activities.

(2) The general status of children in Indiana, including:

(A) the health and education of children; and

(B) the administration or implementation of programs for children; and

(3) Any other issues, concerns, or information concerning children.

(c) A copy of the report shall be provided to the following:

(1) The governor.

(2) The legislative council.

(3) The Indiana department of administration.

(4) The department of child services.

A report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(d) A copy of the report shall be posted on the department of child services' Internet web site and on any Internet web site maintained by the office of the department of child services ombudsman.

**Sec. 11. (a) A person who:**

(1) except as provided in subsection (b), intentionally interferes with or prevents the completion of the work of an ombudsman;

(2) knowingly offers compensation to an ombudsman in an effort to affect the outcome of an investigation or a potential investigation;

(3) knowingly or intentionally retaliates against another person who provides information to an ombudsman; or

(4) knowingly or intentionally threatens an ombudsman, a person who has filed a complaint, or a person who provides information to an ombudsman, because of an investigation or potential investigation;

commits interference with the office of the department of child services ombudsman, a Class A misdemeanor.

(b) Expungement of records held by the department of child services that occurs by statutory mandate, judicial order or decree, administrative review or process, automatic operation of the Indiana Child Welfare Information System (ICWIS) computer system, or in the normal course of business shall not be considered intentional interference or prevention for the purposes of subsection (a).

(c) A complainant who knowingly or intentionally discloses to the public information about a case before the conclusion of an investigation and the release of the finding to the department of child services commits unlawful disclosure of information concerning a department of child services investigation, a Class A misdemeanor.

**Sec. 12. The Indiana department of administration shall provide and maintain office space for the office of the department of child services ombudsman."**

Page 170, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 116. IC 31-19-19-2, AS AMENDED BY P.L.145-2006, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) All files and records pertaining to the adoption proceedings in:

~~(1) the county office of family and children;~~

~~(2) (1) the department; or~~

~~(3) (2) any of the licensed child placing agencies;~~

are confidential and open to inspection only as provided in IC 31-19-13-2(2), IC 31-19-17, or IC 31-19-25.

(b) The files and records described in subsection (a), including



1 investigation records under IC 31-19-8-5 (or IC 31-3-1-4 before its  
2 repeal):

- 3 (1) are open to the inspection of the court hearing the petition for
- 4 adoption; and
- 5 (2) on order of the court, may be:
  - 6 (A) introduced into evidence; and
  - 7 (B) made a part of the record;
- 8 in the adoption proceeding.

9 SECTION 117. IC 31-25-5 IS ADDED TO THE INDIANA CODE  
10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2009]:

12 **Chapter 5. Cooperation With Department of Child Services**  
13 **Ombudsman**

14 **Sec. 1. As used in this chapter, "ombudsman" refers to the office**  
15 **of the department of child services ombudsman established within**  
16 **the Indiana department of administration by IC 4-13-19-3. The**  
17 **term includes an employee of the office of the department of child**  
18 **services ombudsman or an individual approved by the office of the**  
19 **department of child services ombudsman to investigate and resolve**  
20 **complaints regarding the health and safety of a child.**

21 **Sec. 2. The department and the juvenile court with jurisdiction**  
22 **over a child shall provide the ombudsman with:**

- 23 (1) appropriate access to all records of the department
- 24 concerning the child, excluding adoption records, but
- 25 including all records of the department related to vendors and
- 26 contractors; and
- 27 (2) immediate access, without prior notice, to any facility in
- 28 which the child is placed or is receiving services funded by the
- 29 department.

30 SECTION 118. IC 31-27-3-18, AS AMENDED BY P.L.138-2007,  
31 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2009]: Sec. 18. (a) A licensee shall keep records regarding  
33 each child in the control and care of the licensee as the department  
34 requires and shall report to the department upon request the facts the  
35 department requires with reference to children.

36 (b) The department shall keep records regarding children and facts  
37 learned about children and the children's parents or relatives  
38 confidential.

39 (c) The following have access to records regarding children and  
40 facts learned about children:

- 41 (1) A state agency involved in the licensing of the child caring
- 42 institution.
- 43 (2) A legally mandated child protection agency.
- 44 (3) A law enforcement agency.
- 45 (4) An agency having the legal responsibility to care for a child
- 46 placed at the child caring institution.
- 47 (5) The parent, guardian, or custodian of the child at the child

1 caring institution.

2 (6) A citizen review panel established under IC 31-25-2-20.4.

3 **(7) The office of the department of child services ombudsman**  
 4 **established by IC 4-13-19-3.**

5 SECTION 119. IC 31-27-4-21, AS AMENDED BY P.L.138-2007,  
 6 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2009]: Sec. 21. (a) A licensee shall keep records required by  
 8 the department regarding each child in the control and care of the  
 9 licensee and shall report to the department upon request the facts the  
 10 department requires with reference to children.

11 (b) The department shall keep records regarding children and facts  
 12 learned about children and the children's parents or relatives  
 13 confidential.

14 (c) The following have access to records regarding children and  
 15 facts learned about children:

16 (1) A state agency involved in the licensing of the foster family  
 17 home.

18 (2) A legally mandated child protection agency.

19 (3) A law enforcement agency.

20 (4) An agency having the legal responsibility to care for a child  
 21 placed at the foster family home.

22 (5) The parent, guardian, or custodian of the child at the foster  
 23 family home.

24 (6) A citizen review panel established under IC 31-25-2-20.4.

25 **(7) The office of the department of child services ombudsman**  
 26 **established by IC 4-13-19-3.**

27 SECTION 120. IC 31-27-5-18, AS AMENDED BY P.L.138-2007,  
 28 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2009]: Sec. 18. (a) A licensee shall keep records required by  
 30 the department regarding each child in the control and care of the  
 31 licensee and shall report to the department, upon request, the facts the  
 32 department requires with reference to children.

33 (b) The department shall keep records regarding children and facts  
 34 learned about children and the children's parents or relatives  
 35 confidential.

36 (c) The following have access to records regarding children and  
 37 facts learned about children:

38 (1) A state agency involved in the licensing of the group home.

39 (2) A legally mandated child protection agency.

40 (3) A law enforcement agency.

41 (4) An agency having the legal responsibility to care for a child  
 42 placed at the group home.

43 (5) The parent, guardian, or custodian of the child at the group  
 44 home.

45 (6) A citizen review panel established under IC 31-25-2-20.4.

46 **(7) The office of the department of child services ombudsman**  
 47 **established by IC 4-13-19-3.**

1 SECTION 121. IC 31-27-6-15, AS AMENDED BY P.L.138-2007,  
 2 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2009]: Sec. 15. (a) A licensee shall keep records required by  
 4 the department regarding each child in the control and care of the  
 5 licensee and shall report to the department upon request the facts the  
 6 department requires with reference to children.

7 (b) The department shall keep records regarding children and facts  
 8 learned about children and the children's parents or relatives  
 9 confidential.

10 (c) The following have access to records regarding children and  
 11 facts learned about children:

12 (1) A state agency involved in the licensing of the child placing  
 13 agency.

14 (2) A legally mandated child protection agency.

15 (3) A law enforcement agency.

16 (4) A citizen review panel established under IC 31-25-2-20.4.

17 **(5) The office of the department of child services ombudsman**  
 18 **established by IC 4-13-19-3.**

19 SECTION 122. IC 31-33-18-1, AS AMENDED BY P.L.145-2006,  
 20 SECTION 283, IS AMENDED TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in section  
 22 1.5 of this chapter, the following are confidential:

23 (1) Reports made under this article (or IC 31-6-11 before its  
 24 repeal).

25 (2) Any other information obtained, reports written, or  
 26 photographs taken concerning the reports in the possession of:

27 (A) the division of family resources;

28 (B) the county office; ~~or~~

29 (C) the department; ~~or~~

30 **(D) the office of the department of child services**  
 31 **ombudsman established by IC 4-13-19-3.**

32 (b) Except as provided in section 1.5 of this chapter, all records held  
 33 by:

34 (1) the division of family resources;

35 (2) a county office;

36 (3) the department;

37 (4) a local child fatality review team established under  
 38 IC 31-33-24; ~~or~~

39 (5) the statewide child fatality review committee established  
 40 under IC 31-33-25; ~~or~~

41 **(6) the office of the department of child services ombudsman**  
 42 **established by IC 4-13-19-3;**

43 regarding the death of a child determined to be a result of abuse,  
 44 abandonment, or neglect are confidential and may not be disclosed.

45 SECTION 123. IC 31-33-18-1.5, AS AMENDED BY P.L.145-2006,  
 46 SECTION 284, IS AMENDED TO READ AS FOLLOWS  
 47 [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to

- 1 records held by:
- 2 (1) the division of family resources;
- 3 (2) a county office;
- 4 (3) the department;
- 5 (4) a local child fatality review team established under
- 6 IC 31-33-24; **or**
- 7 (5) the statewide child fatality review committee established
- 8 under IC 31-33-25; **or**
- 9 **(6) the office of the department of child services ombudsman**
- 10 **established by IC 4-13-19-3;**
- 11 regarding a child whose death or near fatality may have been the result
- 12 of abuse, abandonment, or neglect.
- 13 (b) For purposes of subsection (a), a child's death or near fatality
- 14 may have been the result of abuse, abandonment, or neglect if:
- 15 (1) an entity described in subsection (a) determines that the child's
- 16 death or near fatality is the result of abuse, abandonment, or
- 17 neglect; or
- 18 (2) a prosecuting attorney files:
- 19 (A) an indictment or information; or
- 20 (B) a complaint alleging the commission of a delinquent act;
- 21 that, if proven, would cause a reasonable person to believe that
- 22 the child's death or near fatality may have been the result of
- 23 abuse, abandonment, or neglect.
- 24 Upon the request of any person, or upon its own motion, the court
- 25 exercising juvenile jurisdiction in the county in which the child's death
- 26 or near fatality occurred shall determine whether the allegations
- 27 contained in the indictment, information, or complaint described in
- 28 subdivision (2), if proven, would cause a reasonable person to believe
- 29 that the child's death or near fatality may have been the result of abuse,
- 30 abandonment, or neglect.
- 31 (c) As used in this section:
- 32 (1) "identifying information" means information that identifies an
- 33 individual, including an individual's:
- 34 (A) name, address, date of birth, occupation, place of
- 35 employment, and telephone number;
- 36 (B) employer identification number, mother's maiden name,
- 37 Social Security number, or any identification number issued by
- 38 a governmental entity;
- 39 (C) unique biometric data, including the individual's
- 40 fingerprint, voice print, or retina or iris image;
- 41 (D) unique electronic identification number, address, or
- 42 routing code;
- 43 (E) telecommunication identifying information; or
- 44 (F) telecommunication access device, including a card, a plate,
- 45 a code, an account number, a personal identification number,
- 46 an electronic serial number, a mobile identification number, or
- 47 another telecommunications service or device or means of

1 account access; and

2 (2) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

3 (d) Unless information in a record is otherwise confidential under  
4 state or federal law, a record described in subsection (a) that has been  
5 redacted in accordance with this section is not confidential and may be  
6 disclosed to any person who requests the record. The person requesting  
7 the record may be required to pay the reasonable expenses of copying  
8 the record.

9 (e) When a person requests a record described in subsection (a), the  
10 entity having control of the record shall immediately transmit a copy of  
11 the record to the court exercising juvenile jurisdiction in the county in  
12 which the death or near fatality of the child occurred. However, if the  
13 court requests that the entity having control of a record transmit the  
14 original record, the entity shall transmit the original record.

15 (f) Upon receipt of the record described in subsection (a), the court  
16 shall, within thirty (30) days, redact the record to exclude:

17 (1) identifying information described in subsection (c)(1)(B)  
18 through (c)(1)(F) of a person; and

19 (2) all identifying information of a child less than eighteen (18)  
20 years of age.

21 (g) The court shall disclose the record redacted in accordance with  
22 subsection (f) to any person who requests the record, if the person has  
23 paid:

24 (1) to the entity having control of the record, the reasonable  
25 expenses of copying under IC 5-14-3-8; and

26 (2) to the court, the reasonable expenses of copying the record.

27 (h) The court's determination under subsection (f) that certain  
28 identifying information or other information is not relevant to  
29 establishing the facts and circumstances leading to the death or near  
30 fatality of a child is not admissible in a criminal proceeding or civil  
31 action.

32 SECTION 124. IC 31-33-18-2, AS AMENDED BY P.L.138-2007,  
33 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2009]: Sec. 2. The reports and other material described in  
35 section 1(a) of this chapter and the unredacted reports and other  
36 material described in section 1(b) of this chapter shall be made  
37 available only to the following:

38 (1) Persons authorized by this article.

39 (2) A legally mandated public or private child protective agency  
40 investigating a report of child abuse or neglect or treating a child  
41 or family that is the subject of a report or record.

42 (3) A police or other law enforcement agency, prosecuting  
43 attorney, or coroner in the case of the death of a child who is  
44 investigating a report of a child who may be a victim of child  
45 abuse or neglect.

46 (4) A physician who has before the physician a child whom the  
47 physician reasonably suspects may be a victim of child abuse or

- 1 neglect.
- 2 (5) An individual legally authorized to place a child in protective
- 3 custody if:
- 4 (A) the individual has before the individual a child whom the
- 5 individual reasonably suspects may be a victim of abuse or
- 6 neglect; and
- 7 (B) the individual requires the information in the report or
- 8 record to determine whether to place the child in protective
- 9 custody.
- 10 (6) An agency having the legal responsibility or authorization to
- 11 care for, treat, or supervise a child who is the subject of a report
- 12 or record or a parent, guardian, custodian, or other person who is
- 13 responsible for the child's welfare.
- 14 (7) An individual named in the report or record who is alleged to
- 15 be abused or neglected or, if the individual named in the report is
- 16 a child or is otherwise incompetent, the individual's guardian ad
- 17 litem or the individual's court appointed special advocate, or both.
- 18 (8) Each parent, guardian, custodian, or other person responsible
- 19 for the welfare of a child named in a report or record and an
- 20 attorney of the person described under this subdivision, with
- 21 protection for the identity of reporters and other appropriate
- 22 individuals.
- 23 (9) A court, for redaction of the record in accordance with section
- 24 1.5 of this chapter, or upon the court's finding that access to the
- 25 records may be necessary for determination of an issue before the
- 26 court. However, except for disclosure of a redacted record in
- 27 accordance with section 1.5 of this chapter, access is limited to in
- 28 camera inspection unless the court determines that public
- 29 disclosure of the information contained in the records is necessary
- 30 for the resolution of an issue then pending before the court.
- 31 (10) A grand jury upon the grand jury's determination that access
- 32 to the records is necessary in the conduct of the grand jury's
- 33 official business.
- 34 (11) An appropriate state or local official responsible for child
- 35 protection services or legislation carrying out the official's official
- 36 functions.
- 37 (12) A foster care review board established by a juvenile court
- 38 under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the
- 39 court's determination that access to the records is necessary to
- 40 enable the foster care review board to carry out the board's
- 41 purpose under IC 31-34-21.
- 42 (13) The community child protection team appointed under
- 43 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to
- 44 enable the team to carry out the team's purpose under IC 31-33-3.
- 45 (14) A person about whom a report has been made, with
- 46 protection for the identity of:
- 47 (A) any person reporting known or suspected child abuse or

- 1 neglect; and
- 2 (B) any other person if the person or agency making the
- 3 information available finds that disclosure of the information
- 4 would be likely to endanger the life or safety of the person.
- 5 (15) An employee of the department, a caseworker, or a juvenile
- 6 probation officer conducting a criminal history check under
- 7 IC 31-26-5, IC 31-34, or IC 31-37 to determine the
- 8 appropriateness of an out-of-home placement for a:
- 9 (A) child at imminent risk of placement;
- 10 (B) child in need of services; or
- 11 (C) delinquent child.
- 12 The results of a criminal history check conducted under this
- 13 subdivision must be disclosed to a court determining the
- 14 placement of a child described in clauses (A) through (C).
- 15 (16) A local child fatality review team established under
- 16 IC 31-33-24-6.
- 17 (17) The statewide child fatality review committee established by
- 18 IC 31-33-25-6.
- 19 (18) The department.
- 20 (19) The division of family resources, if the investigation report:
- 21 (A) is classified as substantiated; and
- 22 (B) concerns:
- 23 (i) an applicant for a license to operate;
- 24 (ii) a person licensed to operate;
- 25 (iii) an employee of; or
- 26 (iv) a volunteer providing services at;
- 27 a child care center licensed under IC 12-17.2-4 or a child care
- 28 home licensed under IC 12-17.2-5.
- 29 (20) A citizen review panel established under IC 31-25-2-20.4.
- 30 **(21) The office of the department of child services**
- 31 **ombudsman established by IC 4-13-19-3.**
- 32 SECTION 125. IC 31-33-25-6, AS ADDED BY P.L.145-2006,
- 33 SECTION 288, IS AMENDED TO READ AS FOLLOWS
- 34 [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The statewide child fatality
- 35 review committee is established to review a child's death that is:
- 36 (1) sudden;
- 37 (2) unexpected; or
- 38 (3) unexplained;
- 39 if the county where the child died does not have a local child fatality
- 40 review team or if the local child fatality review team requests a review
- 41 of the child's death by the statewide committee.
- 42 (b) The statewide child fatality review committee may also review
- 43 the death of a child upon request by an individual **or the office of the**
- 44 **department of child services ombudsman established by**
- 45 **IC 4-13-19-3.**
- 46 (c) A request submitted under subsection (b) must set forth:
- 47 (1) the name of the child;

- (2) the age of the child;
- (3) the county where the child died;
- (4) whether a local child fatality review team reviewed the death;
- and
- (5) the cause of death of the deceased child.

SECTION 126. IC 31-33-25-8, AS AMENDED BY P.L.225-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

- (1) a coroner or deputy coroner;
- (2) a representative from:
  - (A) the state department of health established by IC 16-19-1-1;
  - (B) a local health department established under IC 16-20-2; or
  - (C) a multiple county health department established under IC 16-20-3;
- (3) a pediatrician;
- (4) a representative of law enforcement;
- (5) a representative from an emergency medical services provider;
- (6) the director or a representative of the department;
- (7) a representative of a prosecuting attorney;
- (8) a pathologist who is:
  - (A) certified by the American Board of Pathology in forensic pathology; and
  - (B) licensed to practice medicine in Indiana;
- (9) a mental health provider;
- (10) a representative of a child abuse prevention program; ~~and~~
- (11) a representative of the department of education; ~~and~~
- (12) at the discretion of the office of the department of child services ombudsman, a representative of the department of child services ombudsman established by IC 4-13-19-3.**

SECTION 127. IC 31-33-26-5, AS ADDED BY P.L.138-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Subject to the accessibility to files provided in subsection (b), at least ten (10) levels of security for confidentiality in the index must be maintained.

(b) The index must have a comprehensive system of limited access to information as follows:

- (1) The index must be accessed only by the entry of an operator identification number and a password.
- (2) A child welfare caseworker must be allowed to access only:
  - (A) cases that are assigned to the caseworker; and
  - (B) other cases or investigations that involve:
    - (i) a family member of a child; or
    - (ii) a child;
- who is the subject of a case described in clause (A).
- (3) A child welfare supervisor may access only the following:
  - (A) Cases assigned to the supervisor.



- 1 (B) Cases assigned to a caseworker who reports to the
- 2 supervisor.
- 3 (C) Other cases or investigations that involve:
- 4 (i) a family member of a child; or
- 5 (ii) a child;
- 6 who is the subject of a case described in clause (A) or (B).
- 7 (D) Cases that are unassigned.
- 8 (4) To preserve confidentiality in the workplace, child welfare
- 9 managers, as designated by the department, may access any case,
- 10 except restricted cases involving:
- 11 (A) a state employee; or
- 12 (B) the immediate family member of a state employee;
- 13 who has access to the index. Access to restricted information
- 14 under this subdivision may be obtained only if an additional level
- 15 of security is implemented.
- 16 (5) Access to records of authorized users, including passwords, is
- 17 restricted to:
- 18 (A) users designated by the department as administrators; and
- 19 (B) the administrator's level of access as determined by the
- 20 department.
- 21 (6) Ancillary programs that may be designed for the index may
- 22 not be executed in a manner that would circumvent the index's
- 23 log-on security measures.
- 24 (7) Certain index functions must be accessible only to index
- 25 operators with specified levels of authorization as determined by
- 26 the department.
- 27 (8) Files containing passwords must be encrypted.
- 28 (9) There must be two (2) additional levels of security for
- 29 confidentiality as determined by the department.
- 30 **(10) The office of the department of child services**
- 31 **ombudsman established by IC 4-13-19-3 shall have read-only**
- 32 **access to the index concerning:**
- 33 **(A) children who are the subject of complaints filed with;**
- 34 **or**
- 35 **(B) cases being investigated by;**
- 36 **the office of the department of child services ombudsman. The**
- 37 **office of the department of child services ombudsman shall**
- 38 **not have access to any information related to cases or**
- 39 **information that involves the ombudsman or any member of**
- 40 **the ombudsman's immediate family.**
- 41 SECTION 128. IC 31-39-2-6, AS AMENDED BY P.L.145-2006,
- 42 SECTION 359, IS AMENDED TO READ AS FOLLOWS
- 43 [EFFECTIVE JULY 1, 2009]: Sec. 6. The records of the juvenile court
- 44 are available without a court order to:
- 45 (1) the attorney for the department of child services; or
- 46 (2) any authorized staff member of:
- 47 (A) the county office;

(B) the department of child services; ~~or~~

(C) the department of correction; **or**

**(D) the office of the department of child services ombudsman established by IC 4-13-19-3.**

SECTION 129. IC 31-39-4-7, AS AMENDED BY P.L.145-2006, SECTION 361, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. The records of a law enforcement agency are available, without specific permission from the head of the agency, to: ~~the~~:

**(1) the attorney for the department of child services or any authorized staff member; or**

**(2) any authorized staff member of the office of the department of child services ombudsman established by IC 4-13-19-3.**

SECTION 130. IC 31-39-9-1, AS ADDED BY P.L.67-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The following entities and agencies may exchange records of a child who is a child in need of services or has been determined to be a delinquent child under IC 31-37-1-2, if the information or records are not confidential under state or federal law:

(1) A court.

(2) A law enforcement agency.

(3) The department of correction.

(4) The department of child services.

(5) The office of the secretary of family and social services.

(6) A primary or secondary school, including a public or nonpublic school.

**(7) The office of the department of child services ombudsman established by IC 4-13-19-3."**

Page 177, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 143. IC 34-30-2-39.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 39.6. IC 4-13-19-6 (Concerning a person who releases information to the office of the department of child services ombudsman).**

SECTION 144. IC 34-30-2-39.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

1 [EFFECTIVE JULY 1, 2009]: **Sec. 39.7. IC 4-13-19-9 (Concerning**  
2 **the office of the department of child services ombudsman for the**  
3 **good faith performance of official duties).".**

4 Renumber all SECTIONS consecutively.  
(Reference is to EHB 1001 as printed April 10, 2009.)

---

Senator WALTZ